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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Rene Anthony Castillo,

No. CV-15-00288-TUC-JGZ

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Petitioner,

ORDER

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v.

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Charles Ryan, et al.,

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Respondents.

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Pending before the Court is a Report and Recommendation issued by United States Magistrate D. Thomas Ferraro that recommends denying Petitioner's Habeas Petition filed pursuant to 28 U.S.C. §2254. (Doc. 18.) As thoroughly explained by Magistrate Judge Ferraro, Petitioner's petition is untimely and the claims in Petitioner's petition are procedurally defaulted and/or without merit. As Petitioner's objections (Doc. 19) do not undermine the analysis and proper conclusion reached by Magistrate Judge Ferraro, Petitioner's objections are rejected and the Report and Recommendation is adopted.

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Before Petitioner can appeal this Court's judgment, a certificate of appealability must issue. *See* Fed. R. App. P. 22(b)(1) (the applicant cannot take an appeal unless a circuit justice or a circuit or district judge issues a certificate of appealability under 28 U.S.C. § 2253(c)). Additionally, 28 U.S.C. §2253(c)(2) provides that a certificate may issue only if the applicant has made a substantial showing of the denial of a constitutional right. In the certificate, the court must indicate which specific issues satisfy this showing.

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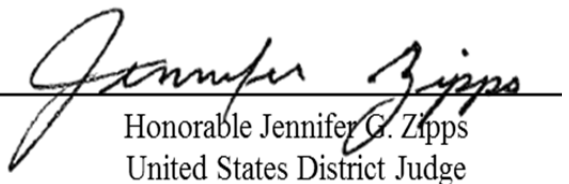
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1 *See* 28 U.S.C. §2253(c)(3). A substantial showing is made when the resolution of an
2 issue of appeal is debatable among reasonable jurists, if courts could resolve the issues
3 differently, or if the issue deserves further proceedings. *See Slack v. McDaniel*, 529 U.S.
4 473, 484-85 (2000). Upon review of the record in light of the standards for granting a
5 certificate of appealability, the Court concludes that a certificate shall not issue as the
6 resolution of the petition is not debatable among reasonable jurists and does not deserve
7 further proceedings.

8 Accordingly, IT IS HEREBY ORDERED as follows:

- 9 1. The Report and Recommendation (Doc. 18) is accepted and adopted;
- 10 2. Petitioner's §2254 Petition (Doc. 1) is denied;
- 11 3. A Certificate of Appealability is denied and shall not issue; and
- 12 4. This case is dismissed with prejudice. The Clerk of the Court shall enter judgment
13 accordingly and close the file in this matter.

14 Dated this 14th day of June, 2017.

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18 Honorable Jennifer G. Zipp
19 United States District Judge
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